

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

VICTOR ALCORN,

Plaintiff,

- against -

COX MEDIA, L.L.C.

Defendant.

Docket No. 1:21-cv-05160

COMPLAINT

Plaintiff Victor Alcorn (“Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Cox Media, L.L.C. (“Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction, distribution and public display of a copyrighted photograph of an automobile accident, owned and registered by Plaintiff, a New York-based photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant is organized and/or transacts business in New York and maintains its principal headquarters in the State of New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Plaintiff is a professional photographer in the business of licensing his work for a fee, having a usual place of business at P.O. Box 662, Medford, New York 11763.

6. Upon information and belief, Defendant is a limited liability company duly organized and existing under the laws of Delaware, with place of business at 555 Sunrise Highway, West Babylon, New York 11704.

7. Defendant is registered to do business in the State of New York.

8. At all times material hereto, Defendant has owned and operated a website at the URL: <https://www.wsbradio.com> (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

9. Plaintiff created a photograph of an automobile accident in Long Island (“Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

10. Plaintiff then licensed the Photograph to the New York Post, which published an article on November 29, 2015 entitled “Woman survives car crash, does trying to retrieve her things” at URL: <https://nypost.com/2015/11/29/woman-survives->

[car-crash-dies-trying-to-retrieve-her-things/](#). A true and correct copy of the New York Post article is attached hereto as Exhibit B.

11. Plaintiff is the author of the Photograph and has at all times been the sole owner of all rights, title and interest in and to the Photograph, including the copyright thereto.

12. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-094-558, with effective date of March 6, 2018 (the “558 Registration”). A true and correct copy of the 558 Registration is attached hereto as Exhibit C.

B. Defendant’s Infringing Activities

13. On or about November 30, 2015, Defendant re-published the Photograph on its commercial Website entitled “*Woman Survives Car Crash, Killed Trying to Retrieve Personal Items*” at URL <https://www.wsbradio.com/news/national/woman-survives-car-crash-killed-trying-retrieve-personal-items/ITXg3hR3xKSpitfWnrgSkJ/> (the “Infringing Article”). True and correct copies of screenshots of the Infringing Article is attached hereto as Exhibit D.

14. Commercial advertisements appear adjacent to the Photograph as displayed on the Website.

15. Defendant did not license the Photograph from Plaintiff for its Infringing Article, nor did Defendant have Plaintiff’s permission or consent to reproduce, distribute or publicly display the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT)
(17 U.S.C. §§ 106, 501)

16. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-15 above.

17. Defendant infringed Plaintiff's copyright in the Photograph by reproducing, distributing and publicly displaying the Photograph as part of the Infringing Article.

18. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

19. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright law in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

20. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright law, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyright in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded actual damages per each work and/or Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph pursuant to 17 U.S.C. § 504(b);
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Defendant be enjoined from displaying the Photograph on the Website;
5. Plaintiff be awarded his costs pursuant to Fed.R.Civ.P. 54(d).
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: New Rochelle, New York
September 16, 2021

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